

US EPA ARCHIVE DOCUMENT

**THE ENVIRONMENTAL
PROTECTION AGENCY-WIDE
PLAN TO PROVIDE SOLID WASTE
MANAGEMENT CAPACITY
ASSISTANCE TO TRIBES**

DRAFT for Tribal Review

Disclaimer

This document identifies internal Agency policies and recommended procedures for EPA employees in coordinating Agency activities related to waste management issues in Indian country. This document is not a rule or regulation and it may not apply to a particular situation based upon the circumstances. This document does not change or substitute for any law, regulation, or any other legally binding requirement and is not legally enforceable. As indicated by the use of non-mandatory language such as “guidance,” “recommend,” “may,” “should,” and “can,” it identifies policies and provides recommendations and does not create any judicially enforceable rights or obligations substantive or procedural in any person.

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1.0 Introduction

1.1 Background

The Environmental Protection Agency's (EPA or "the Agency") mission is to protect human health and the environment. The Agency meets this mission in Indian country¹ by working with federally-recognized Indian tribes (tribes) consistent with the EPA Policy for the Administration of Environmental Programs on Indian Reservations (EPA Indian Policy), and the EPA Policy on Consultation and Coordination with Indian Tribes (Consultation Policy).

In Indian country, the federal hazardous waste regulations under Subtitle C of the Resource Conservation and Recovery Act (RCRA) apply and EPA is the permitting authority. Under RCRA Subtitle D, EPA has established nationally applicable criteria for non-hazardous waste disposal facilities,² which apply to facilities in Indian country. EPA promotes pollution prevention and environmentally-sound recycling, and provides assistance to tribes as they develop waste management programs under their own tribal authority.

Each of the federally-recognized tribes in the United States is unique. Tribes select environmental priorities based on many factors, including geography, economic condition, and culture.

Waste management issues and programs are similarly diverse among tribes. Some tribes are developing and implementing basic waste collection systems and working to clean up open dumps, while others are developing comprehensive waste management programs that include composting, recycling, and household hazardous waste collection. Therefore, a one-size-fits-all approach to addressing environmental problems in Indian country would not be effective.

Overall, the problems and challenges facing tribal waste management programs are significant. EPA is aware that more than 3,000 open dumps³ in Indian country remain to be closed, cleaned

¹ Indian country is defined at 18 U.S.C. § 1151 to mean: "(a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same." As used in this Plan, Indian country may be used more broadly than the above statutory definition and may also include, as appropriate to the circumstance or activity being described, including Alaska Native Villages, where federally recognized tribes have rights and interests.

² EPA established national criteria defining what is a "sanitary landfill" and an "open dump" under RCRA. These criteria are codified in the Code of Federal Regulations at 40 C.F.R. Parts 257 and 258.

³ Indian Lands Open Dump Cleanup Act of 1994 defines "open dump" as follows: "[A]ny facility or site where solid waste is disposed of which is not a sanitary landfill which meets the criteria promulgated under section 4004 of the Solid Waste Disposal Act (42 U.S.C. 6944) and which is not a facility for disposal of hazardous waste." 25 U.S.C. §3902(7). The Solid Waste Disposal Act (SWDA) (commonly referred to as RCRA, for the Resource Conservation and Recovery Act amendments to the SDWA), has a similar definition of the term in 42 U.S.C. § 6903(14). EPA established national criteria under 42 U.S.C. § 6944 defining what is a "sanitary landfill" and an "open dump" under RCRA. These criteria are codified in the Code of Federal Regulations at 40 C.F.R. Parts 257 and 258.

up, or upgraded. While many tribes have developed an Integrated Waste Management Plan (IWMP), others are still developing a comprehensive approach to organizing their waste collection and management programs. The broad scope of the work which remains to be completed in Indian country is an indication that development and implementation of an Agency-Wide Plan is necessary. The *Environmental Protection Agency-Wide Plan to Provide Solid Waste Management Capacity Assistance to Tribes* (the Plan) will address EPA's programs, projects, and specific activities relating to tribal waste management operations.

1.2 Purpose

The purpose of the Plan is to develop and implement an Agency-wide approach for providing consistent and effective tribal solid waste management capacity assistance that is within the scope of EPA's statutory authority.

There are a number of federal agencies entrusted with responsibility for development of tribal capacity related to solid waste management. The Indian Health Service (IHS) provides health services to members of federally-recognized tribes and its goal is to raise their health status to the highest possible level. In 1994, Congress passed the Indian Lands Open Dump Cleanup Act of 1994.⁴ The Act authorizes the IHS to provide funding to close open dumps on tribal lands, as well as provides data management support. The Act states its purpose as follows:

- Identify the location of open dumps on Indian lands and Alaska Native lands;
- Assess the relative health and environmental hazards posed by such dumps; and
- Provide financial and technical assistance to Indian tribal governments and Alaska Native entities, either directly or by contract, to close such dumps in compliance with applicable Federal standards and regulations, or standards promulgated by an Indian tribal government or Alaska Native entity, if such standards are more stringent than the Federal standards.

The Bureau of Indian Affairs (BIA) provides services directly or through contracts, grants, or compacts to 566 federally-recognized tribes with a service population of about 1.9 million American Indian and Alaska Natives. While the role of BIA has changed significantly in the last three decades in response to a greater emphasis on Indian self-governance and self-determination, tribes still look to BIA for a broad spectrum of services. The BIA offers an extensive scope of programs that covers the entire range of federal, state and local government services.

<http://uscode.house.gov/download/pls/25C41.txt>. The term "open dump" thus has a particular meaning under RCRA and the Indian Lands Open Dump Cleanup Act. However, this document sometimes refers to "open dumps" in the broader sense of uncontrolled waste disposal generally, to be consistent with common usage of the term. Accordingly, please note that such references may not necessarily be to statutory "open dumps."

⁴ The Indian Lands Open Dump Cleanup Act of 1994 can be found at: http://www.gsa.gov/graphics/pbs/INDIAN_LANDS_OPEN_DUMP_CLEANUP_ACT_OF_1994.pdf

In addition, Department of Defense (DoD), Housing and Urban Development (HUD), and the Department of Agriculture (USDA)-Rural Development (RD) all have authorities and programs that address solid waste management in Indian country.

The activities of these other federal agencies are not covered by this Plan. As noted above, IHS is the agency within the federal government that is charged with, and provided specific authority to, clean up open dumps on Indian Lands. The EPA statutory authorities applicable to solid waste in Indian country are Subtitles C and D of RCRA (discussed in [Section 1.1](#)). Given IHS's role on open dumps and EPA's statutory authorities and budget constraints, this Plan is intended to document EPA's efforts to be collaborative and strategic in how we use our resources and authorities to build tribal waste management capacity in the coming years.

This Plan implements the recommendations made by the March 21, 2011, U.S. EPA, Office of Inspector General (OIG) Evaluation Report *EPA Needs an Agency-Wide Plan to Provide Tribal Solid Waste Management Capacity Assistance*.⁵ This OIG Report and recommendations generally focused on internal EPA program management issues.

The OIG Report recommendations are:

1. Develop and implement an Agency-Wide Plan for providing consistent and effective tribal solid waste management capacity assistance that is within the scope of EPA's authority and responsibility.
2. Require that the Agency-specific plan include:
 - a. Descriptions of the roles and responsibilities for the EPA program offices and EPA regions conducting solid waste management capacity assistance activities in Indian country.
 - b. Identification of the Agency resources required for providing solid waste management assistance activities.
 - c. Performance measures, including both output and outcome measures, to track whether EPA assistance is consistent and effective in developing solid waste management capacity and reducing risks from open dumps in Indian country.
 - d. Internal controls⁶ to ensure consistent data collection and consistent provision of waste management capacity assistance to tribal clients nationwide.
 - e. A process to ensure coordination between EPA program offices and regions.

⁵ The OIG Evaluation Report can be found at: <http://www.epa.gov/oig/reports/2011/20110321-11-P-0171.pdf>

⁶ Internal controls comprise the plans, methods, and procedures that are used to meet missions, goals, and objectives and, in doing so, support performance-based management. See "Standards for Internal Control in the Federal Government," Government Accountability Office, November 1999, <http://www.gao.gov/special.pubs/ai00021p.pdf>.

- f. A timeline specifying when the activities and outcomes outlined in the plan are expected to be accomplished.

EPA agrees with the OIG's recommendations and believes that the implementation of this Plan will enhance EPA's ability to provide consistent and effective solid waste management capacity assistance to tribes. The Plan is a dynamic document that is subject to further refinement as priorities and resources change.

1.3 Current Tribal Waste Program Priorities and Associated Activities

As noted above, the problems and challenges facing tribal waste management programs are significant. Proper waste management remains a challenge for many tribes for a number of reasons, including limited resources, geographic location, and environmental factors. EPA provides support to tribes to develop and implement solid and hazardous waste management programs, both financially and through the provision of technical assistance. While EPA is devoting headquarters and regional staff to focus on RCRA tribal solid waste activities, financial assistance to tribes to deal with waste-related issues has been severely reduced except for the Indian Environmental General Assistance Program (GAP), which Congress established as a multi-media funding source for building tribal environmental program capacities. As a result, it is critical that EPA prioritize the Agency resources on the waste-related activities that provide the most significant environmental benefits.

EPA's main tribal solid waste priority, intended to address the most pressing waste-related environmental issues in Indian country, is the promotion of sustainable tribal waste management programs through the development and implementation of Integrated Waste Management Plans (IWMPs).⁷

EPA will focus staff time and direct the Agency's remaining tribal solid waste financial assistance towards this priority. EPA has previously articulated the importance of developing a strategy for handling waste. An IWMP outlines a tribe's overall long-term approach for handling and managing waste, and serves as a roadmap for developing an effective waste management program. IWMPs can help to identify successful strategies for managing both current and future waste streams. IWMPs also provide tribes with a way to identify waste management funding needs, investigate potential funding sources, track funding requests and allocate resources accordingly. IWMPs also serve to address existing open dumps and prevent new open dumps.

⁷ The OSWER Tribal Strategy, the annual National Program Managers' Guidance, and the EPA Strategic Plan will be modified to reflect this refinement of the original two tribal solid waste programmatic priorities (development of integrated waste management plans and supporting closing, cleaning up, or upgrading open dumps in Indian country and on other tribal lands). The OSWER Tribal Strategy can be found at: <http://www.epa.gov/oswer/tribal/strategy.htm>. The FY 13 OSWER National Program Managers' Guidance can be found at: <http://www.epa.gov/planandbudget/annualplan/FY13OSWERFinalNPMGuidance.pdf>. See pages 44-45. The FY 2011 – 2015 EPA Strategic Plan can be found at: <http://www.epa.gov/planandbudget/strategicplan.html>.

EPA is focusing on a variety of activities intended to promote sustainable tribal waste management programs through the development and implementation of IWMPs. These activities are covered in more detail in subsequent sections of the Plan:

- Providing support to tribes' waste management activities by funding the development and implementation of IWMPs. This funding would occur primarily through GAP;
- Providing training, outreach (e.g., webinars, website), and technical assistance to support tribes in the development and implementation of integrated waste management plans;
- Coordinating a national peer matching program that connects participating tribes with successful IWMPs with tribes that need assistance; and
- Coordinating internal EPA activities to ensure strategic focus on the promotion of sustainable tribal waste management programs through IWMPs.

IHS is the primary federal agency responsible for identifying, assessing and funding the closure of open dump cleanups. In limited circumstances, EPA may consider funding to assist cleanups or closures of open dumps when the tribe is substantially pursuing tangible elements of the following actions towards building a sustainable waste management program:

- Conducting a characterization study of the waste streams a tribe generates and an assessment of current waste management practices.
- Conducting solid waste facility planning and feasibility studies.
- Developing an IWMP that is approved by the tribe's governing body.
- Developing waste management codes and ordinances.
- Developing and implementing a waste enforcement program and/or other mechanisms to prevent illegal dumping.
- Conducting community outreach and/or environmental education on waste management programs.

Where a tribe is not pursuing the above actions, EPA would not be providing assistance in the cleanup or closure of an open dump unless that the open dump presents an imminent and substantial health threat.

2.0 Program Coordination to Support Tribal Waste Management

2.1 EPA Roles

Within EPA, several offices provide assistance to tribes under the Agency's mission to protect human health and the environment in Indian country as the tribes administer their own

environmental programs. These offices support EPA’s tribal waste management (TWM) program priority to promote sustainable tribal waste management programs through the development and implementation of IWMPs. [Appendix 1: EPA’s Roles and Responsibilities](#) provides additional details on the offices described below.

The following is a brief description of the roles of the EPA organizations that implement RCRA and provide waste management capacity assistance to tribes.

The Office of Solid Waste and Emergency Response (OSWER)

The main role of OSWER, through its six program offices (Office of Superfund Remediation and Technology Innovation; Office of Resource Conservation and Recovery; Federal Facilities Restoration & Reuse Office; Office of Emergency Management; Office of Brownfields & Land Revitalization; and Office of Underground Storage Tanks), is to provide:

- National policy, guidance and direction on the safe management of wastes;
- Prevent and respond to chemical and oil spills, accidents, and emergencies;
- Enhance homeland security; and
- Clean up contaminated property and make it available for reuse.

OSWER has a tribal coordinator, who works with the six program offices within OSWER, to ensure that consistent policies and tribal interests are included in policy-making decisions and activities. The OSWER tribal coordinator meets with the six program offices, and provides leadership and direction for the overall OSWER tribal program. Note that within OSWER, only the Office of Resource Conservation and Recovery and the Office of Brownfields and Land Revitalization have programs that are addressed by this Plan.

- **Office of Resource Conservation and Recovery (ORCR)**

ORCR, located within OSWER, administers EPA’s waste management programs under the authority of RCRA. RCRA promotes energy and resource conservation through recycling, recovery, reduction, clean up, and elimination of waste. ORCR provides national program direction and partners with the regions and other federal agencies to assist tribes with the management of their waste, providing technical assistance and grant funding. Technical assistance includes developing informational and educational materials and supporting training programs. ORCR also provides national policy direction for EPA’s tribal waste management programs. These activities directly support ORCR’s program priority of promoting sustainable tribal waste management programs through the development and implementation of Integrated Waste Management Plans.

- **Office of Brownfields and Land Revitalization (OBLR) Tribal Program**

The Office of Brownfields and Land Revitalization (OBLR) provides funding and technical assistance for the cleanup, redevelopment and revitalization of Brownfields under the Small Business Liability Relief and Brownfields Revitalization Act (Brownfields Law). A Brownfield site is a property, expansion of a property, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, and/or contaminant. The Brownfields Law authorizes grant funding and technical assistance for assessment and cleanup of Brownfields and for the establishment and enhancement of state and tribal response programs. State and Tribal Response Program funding (CERCLA 128(a)) can be used to create new or to enhance existing environmental response programs. Tribes can use this funding for a variety of activities, including the development of certain aspects of a tribe's integrated waste management program, integrated waste management plan, solid waste ordinances, and the inclusion of active and closed open dumps into a contaminated site inventory as long as the activity supports the four elements of a response program and is a shared objective of the tribal grantee and EPA under the cooperative agreement.

Office of International and Tribal Affairs (OITA) - American Indian Environmental Office (AIEO) and Regional Tribal Assistance Programs

AIEO is the lead office for coordinating EPA's overall tribal program and works to ensure consistency with the EPA Indian Policy, the Consultation Policy, and the Administrator's tribal initiatives. AIEO is also the National Program Manager for the Indian Environmental General Assistance Program (GAP).

GAP was created by Congress to provide technical and financial assistance to build tribal capacity in order to develop and administer environmental programs and to address environmental issues on Indian lands. GAP was designed to be multi-media in scope, allowing tribes to develop capacities across the various federal environmental statutes and focus their efforts where the environmental need was greatest. It also supports waste management program implementation activities.

AIEO's responsibilities with respect to managing the GAP program include: establishing national GAP policy and guidelines, including those applicable to tribal solid waste activities; and coordinating GAP budget development and management among the administrative, program, and regional offices. AIEO serves as the decision official for allocation of national GAP funds, disbursement to the regions, and serves as the decision official for grantee requests for construction activities. Regional tribal programs determine the specific GAP grant allocations to eligible applicants and oversee the individual grants.

Office of Enforcement and Compliance Assurance (OECA)

As the National Program Manager within EPA for the Agency's enforcement and compliance assurance program, OECA's main role is to provide national policy, guidance and direction on compliance assistance, compliance monitoring and enforcement activities, including when such activities are undertaken in Indian country. Through our regional offices, EPA promotes compliance with RCRA and other federal environmental laws in Indian country, engages in tribal

consultation when violations are discovered, and undertakes enforcement, when necessary, to achieve compliance in a timely manner. As a result of compliance monitoring activities, EPA identifies and notifies tribal governments when violations of federal environmental requirements occur at tribal facilities. By providing compliance assistance and compliance plans, EPA assists tribal governments and entities in achieving and maintaining compliance with environmental requirements. And through vigorous civil and criminal enforcement, OECA targets the most serious water, air, waste, and chemical hazards and works to advance environmental justice by protecting overburdened communities, including those in Indian country.

With regard to environmental problems arising from the mismanagement of hazardous or solid waste in Indian country, OECA provides direction and support to our regional offices on consulting with tribal governments to address noncompliance, providing compliance assistance, and evaluating the possible use of enforcement to address noncompliance. Where EPA takes formal enforcement in Indian country, OECA provides support to the regions and coordinates, as necessary, with AIEO and OGC. Where enforcement is undertaken to address an open dump, the goal is not only to clean up the existing open dump but to work with the tribe to prevent the creation of future open dumps.

OECA encompasses eight offices, including two that specifically monitor RCRA issues in Indian country: (1) the Office of Compliance; and (2) the Office of Civil Enforcement. These offices, along with OECA's Indian program manager, work to ensure that issues are identified and addressed in a coordinated manner within OECA, and with OSWER, AIEO, and the EPA regions.

Office of Chemical Safety and Pollution Prevention (OCSPP)

The Pollution Prevention Program (P2), located within the Office of Pollution Prevention and Toxics (OPPT), is one of EPA's primary tools for encouraging environmental stewardship by federal, tribal, and state governments, industry, communities, and individuals. The P2 program is designed to eliminate or reduce waste at the point of generation by encouraging cleaner production processes and technologies; promoting the development and use of safer, "greener" materials and products; and supporting the implementation of improved practices, such as the use of conservation techniques, and the reuse of materials in lieu of their placement into the waste stream. As a result of the P2 program, EPA and its partners have achieved significant reductions in the use of hazardous materials, energy, water and savings in production, operation and waste management costs. Thus, the P2 program assists tribes with building their program capacity in these areas.

Regional Offices

The regions are responsible for the execution of the RCRA tribal program in Indian country and there are regional components that support each of the above four HQ program offices. Currently, federally-recognized tribes are located in nine out of the ten EPA regions. These nine regions have tribal assistance programs and media-specific programs to ensure that the Agency carries out its work in Indian country and with federally-recognized tribes in their respective regions. The primary responsibility of each regional tribal waste management program is to

assist tribes in addressing waste management issues in Indian country. EPA regional tribal waste management programs provide direct support to the tribes within their respective region and implement the Agency's authorities and national policies and priorities. Regional tribal assistance programs are responsible for administering GAP assistance agreements with tribes and intertribal consortia and coordinating with regional tribal waste management programs. The primary responsibility of each regional enforcement and compliance assurance program is to undertake appropriate compliance assistance, compliance monitoring, and enforcement. This includes providing direct support to the tribes, within their respective region, in implementing the Agency's authorities and national policies and priorities. For tribal solid waste, these programs will focus on promoting sustainable tribal waste management programs through the development and implementation of IWMPs.

2.2 Internal EPA Communication and Coordination

As noted in the previous section, several offices within EPA have a role in addressing tribal solid waste management activities in Indian country. EPA believes that program coordination between headquarters (HQ) and regional offices is critical and ensures that the Agency's efforts to provide tribal waste management capacity assistance are as efficient as possible and are focused on the program's priority. EPA's goal is to eliminate duplication among offices, while looking for synergies where different organizations can either fill in programmatic gaps or reach additional communities or audiences. EPA will also strive for consistency between offices and regions, while recognizing that situations will vary among tribes depending on their location, environment and culture.

EPA currently uses several mechanisms to coordinate and maintain consistency at both the staff and management levels. These mechanisms, along with planned improvements, are described below. ORCR intends to review the coordination mechanisms in the future to determine whether additional adjustments are warranted.

- *ORCR Regional Liaisons* - ORCR assigned a staff liaison for each region to keep informed of regional issues, including those regarding specific tribes. The liaison intends to keep regional staff informed of any issues, policies or guidance that may impact the region through monthly calls. The liaison expects to inform other ORCR staff of specific regional issues of interest and raise issues to management, as necessary, for resolution.
- *Monthly Tribal Solid Waste Coordinators Conference Call* - The monthly Tribal Solid Waste Coordinators conference call provides the primary national communication forum for discussing national issues pertaining to tribal waste management programs within the Agency. These calls provide an opportunity for increased communication between HQ and regional offices. OBLR, OCSPP, OECA, and AIEO are invited to attend the monthly conference call, and are especially encouraged to address topics of mutual interest. In addition, to maximize efficiency, ORCR anticipates using this call to facilitate communication with the *Sub-Lead Region* to stay abreast of the Lead Region Focus Areas.

- *Quarterly Sub-Lead Region Focus Area Conference Calls/Updates* - The Sub-Lead Region for tribal issues holds quarterly Lead Region Focus Area Conference Calls/Updates to keep regional staff informed about the Sub-Lead Region work. The updates provide information about the Sub-Lead Region priority areas, as well as other current projects. The Sub-Lead Region for tribal issues also gives an update every month on the *Monthly Tribal Solid Waste Coordinators Conference Call* and disseminates information to EPA tribal waste management staff, quarterly through e-mail(s).
- *Monthly OSWER Tribal Program Coordinators Calls* - The monthly OSWER Tribal Program Coordinators Call provides a forum for discussing individual HQ program office efforts, as well as for coordinating activities within OSWER and other EPA program offices. These calls also allow the OSWER tribal coordinator to highlight important efforts of other EPA offices that may affect the OSWER program offices.
- *Monthly RCRA Permit and Base Program Managers Conference Calls* - First line managers within ORCR and the regional offices hold monthly conference calls to discuss significant issues within the RCRA program. ORCR and regional management intend to continue to communicate pressing tribal waste management issues on these conference calls.
- *Semi-annual National RCRA Division Directors Meetings and Monthly Conference Calls* - ORCR, OECA, and regional management will continue to address tribal waste management issues at these meetings and conference calls, as needed.
- *OBLR State and Tribal Conference Calls* - OBLR chairs this call and HQ staff and regional program office staff who administer the Brownfields Section 128(a) state and tribal grants participate.

2.3 Internal EPA Communication and Coordination Procedures

National Issues

- HQ and the regions will raise, communicate and coordinate with HQ and regional staff on issues that are national in scope, such as guidance documents, rulemakings, policies, and initiatives via e-mail(s) and/or discussions on the Monthly Tribal Solid Waste Coordinators Conference Call, depending on when the issue needs to be addressed.
- National issues that require management attention are addressed on the relevant monthly conference call (i.e., Monthly RCRA Permit and Base Program Managers Calls or RCRA Division Directors Monthly Conference Calls), through email from the appropriate level of management, or through direct communication.
- Issues of national significance impacting multiple offices are expected to be addressed by the EPA Executive Management Council's Indian Program Policy Council (IPPC) – the EPA senior leadership team charged with addressing the Agency's major policy and

program implementation issues related to tribes and addressing Indian policy issues of national significance.

- AIEO intends to maintain national consistency in how GAP funds are managed to support tribal solid waste management capacity by maintaining regular engagement with regional tribal assistance program managers, GAP assistance agreement Project Officers, ORCR management, and OECA management through emails, the relevant monthly conference call, or through direct communication.

Regional Issues

- Regions will raise any region-specific issues for discussion and resolution to their ORCR liaison. The ORCR staff will elevate issues to ORCR management, as necessary. Regions will discuss issues of interest to the other regions on the Monthly Tribal Solid Waste Coordinators Conference Call. If necessary, regional staff will raise issues requiring management attention to their management, and on the appropriate management conference call (i.e., Monthly RCRA Permit and Base Program Managers Calls or RCRA Division Directors Monthly calls).

2.4 Coordination with other Federal Agencies

Tribes often work simultaneously with EPA and other federal agencies using funds from multiple funding sources. EPA understands that partnering and improving coordination between federal agencies improves the overall effectiveness of the federal government's tribal waste management capacity building efforts. EPA is committed to improving its coordination with other federal agencies, and in particular the Indian Health Service, as we implement this Plan.

2.5 EPA Resources

2.5.1 EPA Staff and Technical Assistance

EPA provides support to tribes to develop and implement solid and hazardous waste management programs, both financially and through the provision of technical assistance. EPA's FTE resources dedicated to tribal solid waste issues are extremely limited. As such, this information is not easily tracked given that many FTE may spend a small fraction of their time on tribal solid waste activities. EPA estimates that in total, the equivalent of less than 20 full time RCRA staff work on tribal solid waste activities. This is a significant increase, however, over the 7.5 FTE that was estimated in FY 2000. This increase in FTE is a reflection of the priority the Agency places on addressing tribal waste management issues, particularly considering this occurred over a period of overall reductions to the RCRA program.

2.5.2 Financial Assistance

Office of International and Tribal Affairs (OITA) - American Indian Environmental Office

- **The Indian Environmental General Assistance Program [CFDA No. 66.926]** provides assistance to build tribal capacity to administer environmental programs on

Indian lands, and technical assistance in the development of multimedia programs to address environmental issues on Indian lands; supports planning, developing, and establishing the capability to implement environmental programs, which includes solid and hazardous waste implementation activities. While the implementation of solid and hazardous waste programs includes solid waste cleanup activities in Indian country, the focus for GAP funding will remain on supporting tribal government efforts to develop a sustainable program designed to address the recurrence of illegal dumping. In general, EPA will ensure that GAP funds are directed toward supporting financially sustainable programs, and will avoid funding repeat cleanups at the same location.

In addition, GAP funds may be used to support activities that are part of a sustainable waste management program designed to increase waste source reduction, and to support and encourage recycling, composting, and sustainable materials management. All of these activities directly support EPA's TWM program priority, when they are an integral part of a tribe's IWMP. This information about the appropriate use of GAP funding for tribal solid and hazardous waste program development and implementation is expected to be reflected in the Agency's *Guidebook for Building Tribal Environmental Capacity*.

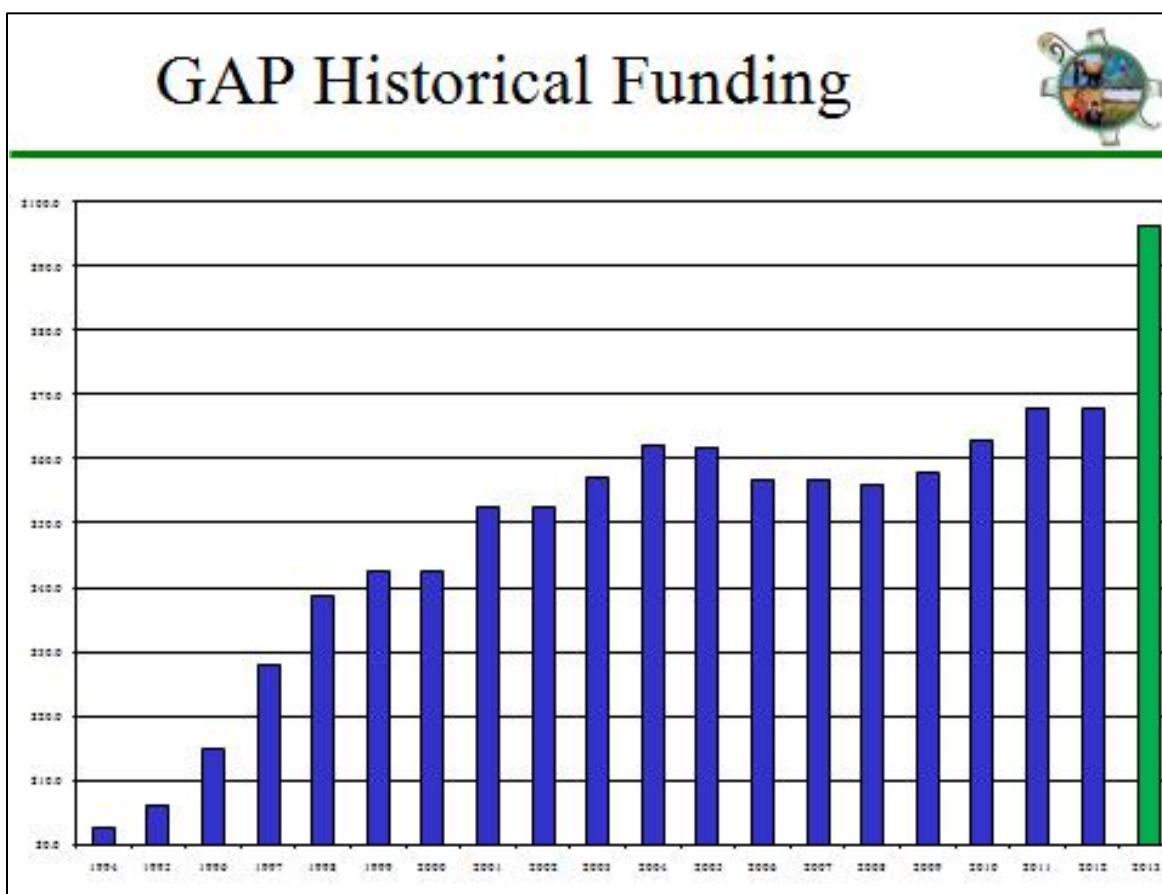


Figure 1. GAP program funding from 1994 to the FY 2013 budget request.

The Office of Solid Waste and Emergency Response (OSWER)

- **The Hazardous Waste Management Grant Program for Tribes [CFDA No. 66.812]⁸** provides assistance for the development and implementation of hazardous waste management programs; for building capacity to improve and maintain regulatory compliance; and for developing solutions to address hazardous waste management issues in Indian country. The following list of activities are suggestive and do not limit the range of activities that are considered eligible for funding through the Hazardous Waste Management Grant Program: develop and implement codes, regulations, ordinances, policies, and/or guidance to regulate hazardous waste management; identify and assess hazardous waste generation; develop and implement tribal integrated hazardous waste management plans (including source reduction/recycling); develop and implement used oil collection events and/or programs; develop and implement household hazardous waste collection events and/or programs; and develop and implement universal waste collection events and/or programs. Some of the activities described above prevent hazardous materials from entering the waste stream.
- **The Tribal Solid Waste Management Assistance Project (TSWMAP)**, an interagency effort, provided financial assistance to tribes throughout Indian country to close and prevent open dumps, clean up solid waste in Indian country, and develop safe solid waste management practices. The participating agencies that coordinated and provided funding to support the TSWMAP, in addition to EPA, are the IHS, BIA, DoD, HUD, and USDA-RD. Funding for the TSWMAP has varied throughout the years and has decreased over the past five years for all participating federal agencies. Figure 2, below, shows the total annual funding for the TSWMAP from 1999 through 2011. Funding for the TSWMAP for FY 2012 from all federal agencies will be zero, reflecting the challenging fiscal constraints facing the federal government at this time.

⁸ The Hazardous Waste Management Grant Program for Tribes is funded through the State and Tribal Assistance Grants which is a Congressional Appropriation.

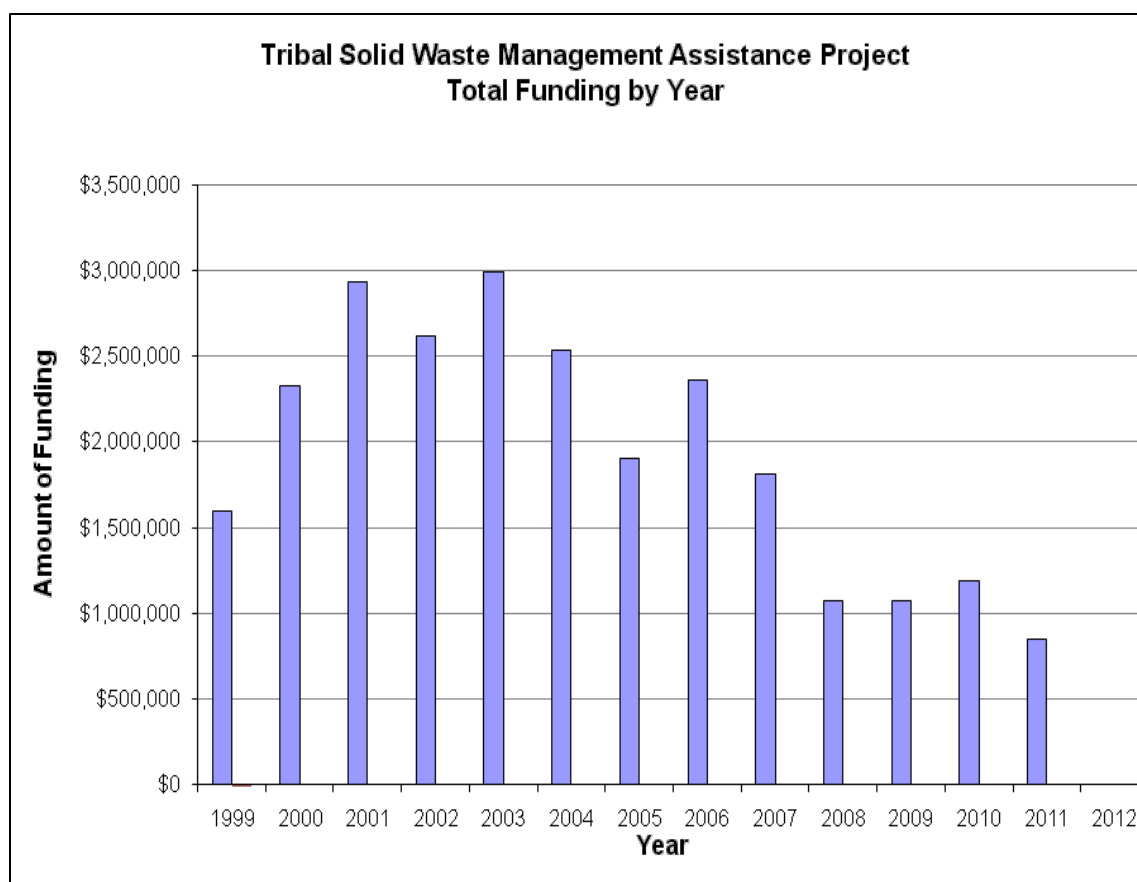


Figure 2. The total annual funding for the TSWMAP, from all agencies, for the years, 1999-2012.

- ORCR allocates funds to the nine EPA regions with federally-recognized tribes. The funds help the TWM program in each region fund various projects, including providing Senior Environmental Employees (SEEs) as Circuit Riders.⁹ This funding also aids the national TWM program in achieving its GPRA measures. The funding is distributed based on a formula which considers the tribal land base, number of tribes, and the tribal population in each region. In addition, OECA allocated approximately \$714,000 between FY 2008 and FY 2011 to the nine EPA regions with tribes to support solid waste compliance assurance activities.

Below is the total amount of funds EPA distributed to the regions over the past five years.

⁹ Circuit Rider - Involves designating one or more people to provide technical assistance directly to tribal governments in EPA regions. The circuit rider is responsible for assisting tribal communities with a range of planning functions, such as developing Integrated Waste Management Plans, revising codes, developing regulations, analyzing policies, and reviewing project proposals. In many regions, Circuit Riders are the primary source of technical assistance to tribes. This assistance may include work which supports the ORCR Tribal Program GPRA goals, supplement EPA training efforts and conduct outreach and education.

Fiscal Year	Funds Allocated
2008	\$642,513
2009	\$378,200
2010	\$401,396
2011	\$157,000
2012	\$249,000
Total Allocation	\$1,828,610

- **The Brownfields Assessment and Cleanup Cooperative Agreements [CFDA No. 66.818]** provides assistance to: (1) inventory, characterize, assess, and conduct planning and community involvement related to Brownfields sites; (2) capitalize a revolving loan fund (RLF) and provide sub-grants to carry out cleanup activities at Brownfields sites; and (3) carry out cleanup activities at Brownfields sites that are owned by the grant recipient.

OBLR provides grant funding for the assessment of Brownfields sites and cleanup through Assessment, Revolving Loan Fund, and Cleanup Grants (ARC Grants), as well as funding to recruit, train, and place, unemployed and under-employed, predominantly low-income and minority, residents historically affected by hazardous and solid waste sites and facilities with the skills needed to secure full-time, sustainable employment in the environmental field and in the assessment and cleanup work taking place in their communities through Environmental Workforce Development and Job Training Grants (EWDJT). Federally-recognized tribes are eligible to apply for these competitive grants. Tribes may use ARC Grants to address sites contaminated by petroleum, hazardous substances, pollutants and/or contaminants. Solid waste sites, such as open dumps, may be eligible for Brownfields funding if the site meets the definition of a Brownfields property. The EWDJT Grants provide training for affected residents of Brownfields communities to take advantage of jobs created by the assessment and cleanup of Brownfields properties in their community.

The Office of Chemical Safety and Pollution Prevention

- **The Pollution Prevention Grant Program [CDFA 66.708]** provides assistance to states and tribes to give them the capability to promote the use of source reduction techniques by businesses. Projects that have been funded include technical assistance, training, outreach, education, regulatory integration, data collection, research, demonstration projects, and recognition programs. P2 Grant recipients, as required under Section 6605 of the Pollution Prevention Act, must provide at least a 50% match of the total allowable project cost by the time of award to be considered eligible to receive funding.
- **The Source Reduction Assistance (SRA) Grant Program [CFDA 66.717]** awards are issued annually by the regions. The purpose of issuing SRA awards is to support environmental projects that reduce or eliminate pollution at the source. EPA requires the applicant to provide a minimum 5% match, as part of the total allowable project cost, in order to receive an award.

Note that the funding for the grant programs mentioned above can vary from year to year depending on a number of factors, including the total amount of funding available for each grant program, as well as tribal environmental priorities.

To address waste management issues in Indian country, EPA regions use and leverage resources from other HQ offices, as well as from other agencies and organizations. For example, the regions may facilitate the combining of funds from several sources to fully fund a specific tribal project or activity. As noted earlier, EPA's strategy is to direct funds toward supporting financially sustainable programs that will avoid funding repeat cleanups at the same location.

3.0 EPA Performance Measures

The Office of International and Tribal Affairs oversees two strategic measures related to tribes.

- By 2015, increase the percent of tribes implementing federal regulatory environmental programs in Indian country to 18 percent. (FY 2009 baseline: 13 percent of 572 tribes)
- By 2015, increase the percent of tribes conducting EPA-approved environmental monitoring and assessment activities in Indian country to 50 percent. (FY 2009 baseline: 40 percent of 572 tribes)

The two measures above do not include activities under RCRA. However, EPA may consider revising these measures to include RCRA in the future. As a result, OSWER established two Government Performance and Results Act (GPRA)¹⁰ performance measures and strategic goals that support the original two programmatic priorities (development of integrated waste management plans and supporting closing, cleaning up, or upgrading open dumps in Indian country and on other tribal lands). These performance measures and goals provide a focus for the Agency activities to assist tribes in the development of waste management programs and foster tribal capacity for building sustainable waste management programs. The two goals, which are part of the FY 2011-2015 EPA Strategic Plan, are:

- By 2015, increase by 78 the number of tribes covered by an integrated waste management plan compared to FY 2009.
- By 2015, close, clean up or upgrade 281 open dumps in Indian country and on other tribal lands compared to FY 2009.

¹⁰ Government Performance and Results Act (GPRA) - The 1993 Government Performance and Results Act holds federal agencies accountable for using resources wisely and achieving program results. GPRA requires agencies to develop plans for what they intend to accomplish, measure how well they are doing, make appropriate decisions based on the information they have gathered, and communicate information about their performance to Congress and to the public. For additional information pertaining to GPRA, visit the following website:
<http://intranet.epa.gov/fmdvally/about/gpra.htm>.

As EPA refines the tribal solid waste priorities, the Agency intends to evaluate the two existing tribal solid waste GPRA measures to determine whether they continue to serve as the best measures.

3.1 Integrated Waste Management Plan (IWMP) Performance Measure

As noted earlier, IWMPs are important because they serve as a roadmap for developing an effective waste management program. EPA provides guidance and has developed tools to help tribal governments develop and implement IWMPs, but EPA does not approve tribal IWMPs. The responsibility for developing and implementing IWMPs lies with each tribe. EPA understands that many tribes currently provide their IWMP to their regional office for review and the regions are encouraged to provide appropriate comments.

On July 30, 2007, the Office of Solid Waste (now ORCR), issued a Memorandum, *Five Elements of a Tribal Integrated Waste Management Plan*,¹¹ to all regional RCRA Directors. The memorandum's stated purpose is to provide EPA staff direction on what elements should generally be included (unless information is provided that such element(s) are not appropriate or necessary) in an IWMP to be counted in EPA's Annual Commitments System (ACS). EPA uses the ACS to measure Agency performance under GPRA. However, EPA expects that tribes may also find the factors discussed in the memo useful as they develop their IWMPs and regions in commenting on draft IWMPs.

Regions should maintain procedures for reviewing and evaluating IWMPs to determine their inclusion under the IWMP performance measure as described below. The following procedures are recommended when the regions review an IWMP:

- Regions should use the *Five Elements of a Tribal Integrated Waste Management Plan* memorandum to identify the relevant issues for the IWMP to address and as an evaluation tool when assessing whether an IWMP should be counted under EPA's performance measure. As stated in the memorandum, the five recommended elements are:
 1. Description of the community service area;
 2. Description of the tribe's solid waste program structure and administration;
 3. Description of the tribe's current and proposed waste management practices;
 4. Description of the funding, sustainability and the long-term goals of the tribe's solid waste management program; and
 5. Documentation of approval of the IWMP by appropriate tribal governing body.

¹¹ The "Five Elements of a Tribal Integrated Waste Management Plan" can be found at: [http://yosemite.epa.gov/osw/rcra.nsf/0c994248c239947e85256d090071175f/E7661F353791AD71852573780050876E/\\$file/14776.pdf](http://yosemite.epa.gov/osw/rcra.nsf/0c994248c239947e85256d090071175f/E7661F353791AD71852573780050876E/$file/14776.pdf)

- Every quarter, ORCR will request, from the regions, the name of any tribe with an approved IWMP which has been counted as an accomplishment under the GPRA measure for that fiscal year. ORCR will maintain the list of all tribes with an IWMP under the performance measure.

There are several other activities regarding tribal IWMPs that regions may conduct:

- Encourage tribes to consider attending a training session and use a planning template and/or other resources to make the IWMP development process easier. EPA, IHS, and other organizations have provided training and technical assistance to tribes when developing an IWMP.
- Encourage tribes to use the draft *Sustainability Evaluation Tool*¹² to evaluate the sustainability of their existing program, and address the sustainability factors in their IWMP.
- Ensure that all regional program offices (*e.g., the Brownfields Program*) and tribes are aware of the *Five Elements of a Tribal Integrated Waste Management Plan* memo and the draft *Sustainability Evaluation Tool*, and encourage tribes to use these documents if a tribe is seeking funding through GAP, Brownfields or other EPA funding vehicles.

As of September 30, 2011, almost 25 percent of the federally-recognized tribes (134) have completed an IWMP which has been counted as an accomplishment under EPA's performance measure. See Figure 3 below for a tabulation of the number of IWMPs counted in EPA's ACS for each of the last five fiscal years.

¹² To learn more about the draft *Sustainability Evaluation Tool* please visit:
<http://epa.gov/region5/waste/solidwaste/tribaldocs/sustainable-tribal-integrated-wmp-200810.pdf> and
<http://epa.gov/region5/waste/solidwaste/tribaldocs/sustainable-tribal-integrated-wmp-200810-evaluation.pdf>.

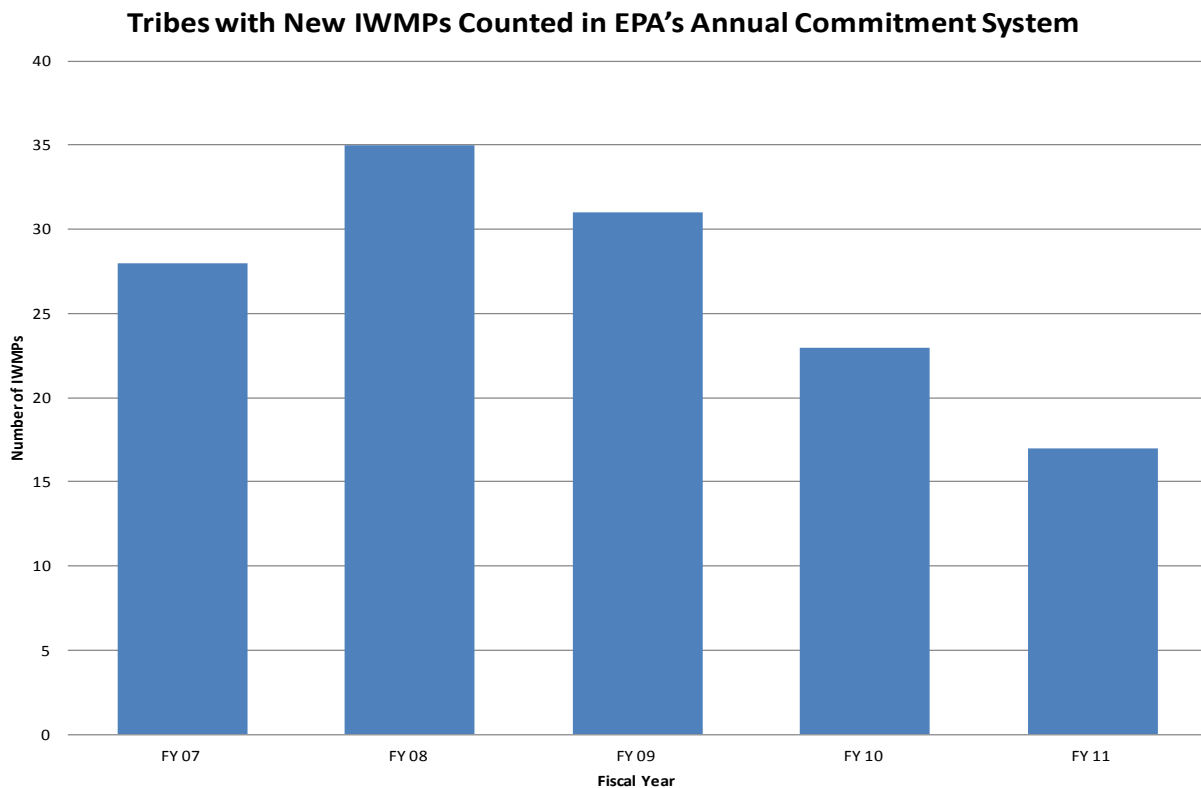


Figure 3. Number of tribal IWMPs, per fiscal year, counted in the ACS.

3.2 Open Dumps Performance Measure

EPA's second GPRA measure is, by 2015, close, clean up or upgrade 281 open dumps in Indian country and on other tribal lands compared to FY 2009. As of February 2012, IHS reported 3,682 open dumps (note that this number is continually changing because the assessment of open dumps is still ongoing), and as of September 30, 2011, 647 open dumps have been closed, cleaned up or upgraded. See Figure 4 below which provides the number of open dumps closed, cleaned up or upgraded in each of the last five fiscal years. Given IHS's primary role on open dumps, EPA will rely on IHS internal controls to ensure the integrity of open dump data.

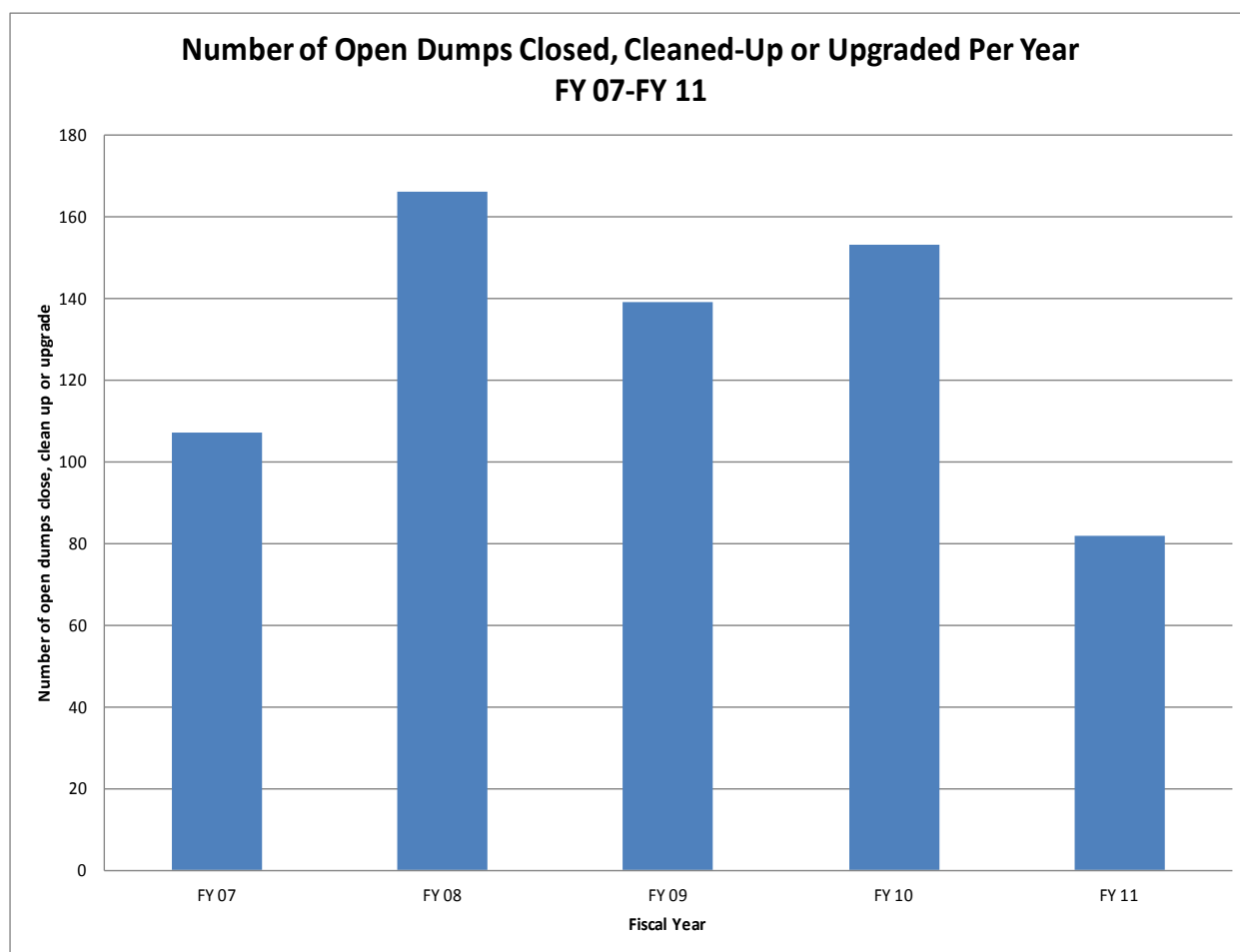


Figure 4. Number of open dumps closed, cleaned up or upgraded, in Indian country, in the last five fiscal years.

3.3 New Proposed Performance Measures

EPA initiated the two current tribal performance measures in FY 2007. Since their inception, EPA has met or exceeded the annual targets for both measures - IWMPs and open dumps. As of September 30, 2011, EPA has recorded a total of 134 IWMPs and 647 open dumps closed, cleaned up or upgraded under the EPA performance measure.

EPA committed to evaluate new performance measures in this Plan as part of the Agency's response to the OIG's Report. EPA has identified new options for measures, including:

- Waste generated in Indian country and other tribal areas is reused or recycled, or is disposed of in regulated facilities.
- Number of tribes that have adopted and implemented solid waste codes, ordinances, or regulations.
- Number of tribes receiving EPA assistance in the development and implementation of sustainable tribal waste management programs.

- Elimination of the Open Dump measure based on the tribal solid waste priority refinement discussed in this Plan and the limited resources available to invest in this area.
- Modifying the existing Agency-Wide tribal program strategic performance measures maintained by OITA (and referenced in Section 3.0) to incorporate solid waste management.

EPA believes that the development and refinement of performance measures is an ongoing process that will extend beyond the issuance of this Plan. Therefore, EPA anticipates analyzing these possible performance measures, as well as other suggestions and expects to determine whether new performance measures are needed and feasible. The Agency intends to hold discussions with tribes, including the National Tribal Caucus and Regional Tribal Operations Committees (RTOCs), when possible. If it is determined that the Agency needs to replace or upgrade the existing performance measures, EPA intends to develop draft measures by March 31, 2013. The Agency would address new performance measures during the Strategic Planning process, which includes consultation with tribes. To ensure that EPA analyzes and determines whether new performance measures are needed by March 31, 2013, ORCR expects to:

- Create a workgroup, consisting of both HQ and regional staff, by September 1, 2012;
- Convene monthly workgroup meetings; and
- Obtain input from HQ and regional management, as well as tribes, on the need for new performance measures.

As part of this process, EPA considers several factors when assessing the feasibility of additional performance measures or replacing the existing performance measures with new performance measures, including:

- The availability and quality of performance measure data, and the feasibility of measuring results;
- Whether the measure supports EPA's TWM program priority;
- Whether there is an action that can be noted as completed;
- How the Agency should evaluate new measures;
- Whether new measures require additional Agency resources and, whether these resources exist;
- Preference for outcome measures over output measures;
- Input collected from tribes regarding measures, especially when EPA is not specifically funding the tribes to obtain and report; and

- The cost of obtaining data and conducting performance evaluations, for both tribes and EPA.

4.0 EPA Capacity Building to Support Main Program Priority

EPA provides tools, technical assistance, training and outreach to tribes as they develop their TWM program by utilizing a variety of mechanisms (e.g., answering phone calls/e-mails, updating EPA's website, providing training through webinars, and supporting peer match programs for tribal employees). EPA staff are available to provide both technical and policy assistance regarding all aspects of the TWM programs. A current list of HQ and regional tribal waste management contacts will be updated regularly on the ORCR tribal program website.¹³ The ORCR tribal program website will also include a link to the EPA National Tribal Program Contacts, which is located on the AIEO Tribal Portal.¹⁴

4.1 Direct Support to Tribes

Many EPA regions utilize Senior Environmental Employees (SEEs) as Circuit Riders to provide direct assistance/service to tribes. Circuit Riders are helpful in addressing tribal needs, when resources are available to fund them. Circuit Riders conduct much of their work in the field, which greatly supplements full-time EPA staff efforts. Generally, regions have limited travel funds and time for staff to spend outside the regional office. In many regions, Circuit Riders are the primary source of technical assistance to tribe and assistance extends to all aspects of the TWM program. Circuit Riders' work includes:

- Assisting tribes in developing an IWMP; and
- Supplementing EPA training efforts and conduct general outreach and education.

4.2 Tribal Waste Management Program Outreach and Technical Information

Outreach material is a critical tool EPA uses for providing solid waste technical assistance to tribes. EPA should have an effective and standardized process for collecting and disseminating outreach material because it is essential to having a successful TWM program. EPA intends to solicit feedback from tribes on the effectiveness of the existing outreach material and will update and develop outreach tools, as feasible and necessary. The initial compilation of information and outreach tools is listed in [Appendix 2: List of Informational Tools and Resources](#).

ORCR's tribal program website is an important source for information, communication, and education, as tribes are able to access information on a variety of topics. It will also provide links to the other EPA waste management program website pages (e.g., Pollution Prevention Program, Tribal Portal) so that all relevant information can be accessed through one website. ORCR is working to develop a web-based repository for tools that can assist tribes with developing and implementing waste management programs. ORCR anticipates modifying the

¹³ <http://www.epa.gov/tribalmsw>

¹⁴ <http://www.epa.gov/indian/contactinfo/index.htm>

overall ORCR tribal program’s website to include more detailed and up-to-date information about waste management issues in Indian country by March 1, 2013. Updates to the ORCR tribal program’s website will be made as needed, but at a minimum annually. By December 31, 2012, ORCR intends to have the following interim updates for its tribal waste management program website:

- [Appendix 2: List of Informational Tools and Resources](#) and links to external documents will be located within the ORCR tribal web page (www.epa.gov/tribalmsw); and
- Links to other EPA waste management program pages such as the [Pollution Prevention Program](#), [Tribal Portal](#), etc.

4.3 Tribal Waste Management Program Training

Webinars are an online, real-time, interactive forum where individual participants can see presentations on their computer screens, while listening to the presenter. Webinars let one “attend” training regardless of his or her location. Webinars allow the participant to interact with the trainer, ask questions, and take notes as if they were in the same room.

HQ and the regions will promote and expand the use of online training and webinars. EPA anticipates developing a Tribal Waste Management Webinar series and intends to regularly solicit ideas and feedback from tribes on what products/resources would be most useful. ORCR, with the support of the regions, will:

- Research training that is currently available (e.g., Trainex, Clu-In) and promote these trainings so that tribes can take advantage of these resources.
- Develop an initial training webinar for all EPA staff on existing tools.
- Offer an annual webinar for EPA employees on tools for developing tribal IWMPs and tribal waste programs. ORCR plans to develop other staff trainings as well.
- Develop a quarterly webinar series on Tribal Waste Management Tools. ORCR intends to solicit tribal input on tools to highlight and on tools that need development. It is anticipated that each webinar will focus on a specific tool, and feature tribes that have used the tool whenever possible.

4.4 National Peer Matching Program

A peer match, as described in this Plan, is a voluntary exchange of information between tribes, where one tribe has technical assistance needs and one (or more) other tribes has technical expertise in that same subject area. These may be facilitated by EPA. In a peer match, the tribe(s) with technical expertise mentors the requesting tribe. The mentoring process is intended to provide technical assistance to a tribe to complete a specific technical task, such as designing and supervising construction of a transfer station, writing an IWMP, establishing enforcement codes, etc. In most cases, the only direct cost to EPA (or other funding entity) will be travel, either for the tribal members providing assistance, or those receiving it. Peer matching can be a

productive, cost effective, and culturally appropriate method of providing technical assistance to tribes on a wide range of waste-related topics.

Currently, there are multiple examples of successful tribal peer match programs facilitated by EPA regions. EPA aims to enable a nationwide tribal peer match program focused on solid waste issues. Peer assistance may be requested for a variety of technical needs, including but not limited to, development of an IWMP; development of solid waste enforcement codes; construction and operation of a transfer station, recycling facility, or landfill; developing best practices for pollution prevention; greening government/businesses; and increasing recycling rates. Matches should aim to complete a project within a one-year timeframe and are voluntary.

ORCR and the regions intend to:

- Establish a national peer match list by November 30, 2012; and
- Initiate one peer match project by February 28, 2013.

4.5 Institute for Tribal Environmental Professionals (ITEP)

To better serve tribes and provide improved technical assistance, OSWER entered into a five year cooperative agreement in November of 2008 with the Institute for Tribal Environmental Professionals. The key components of this cooperative agreement are the annual Tribal Lands Forum, the National Tribal Steering Committee, training courses developed and delivered annually, and hazardous substance research. The cooperative agreement covers all of OSWER's programs including Brownfields, Underground Storage Tanks, Solid and Hazardous Waste, Emergency Response, and Superfund. The annual Forum provides an opportunity for tribal environmental practitioners to interact with EPA and other federal partners as well as with each other. In addition to training sessions offered each year at the Forum, ITEP develops and delivers four additional in-person trainings per year. Two of these trainings are offered in Alaska and two are offered in the lower forty-eight. All of the activities conducted under the cooperative agreement are informed and guided by the National Tribal Steering Committee. The committee has broad environmental experience and represents all parts of the country. The committee's wide-ranging experience and regional backgrounds ensure that the cooperative agreement activities are meeting the needs of tribes across the country. The Steering Committee meets four times a year, including a yearly meeting in Washington DC during which they also meet with senior OSWER officials to discuss critical environmental issues affecting tribes. The cooperative agreement is a valuable tool that helps OSWER and tribes collectively address tribal land contamination issues covered by OSWER statutory programs.

5.0 Activities and Timeline

Below are the major milestones for activities described in the Plan:

Section	OIG Recommendation	Task	Description	Due Date
2.2 Internal EPA Communication	2(e) - A process to ensure	Monthly Tribal Solid Waste	This monthly call provides a national forum	On-going-Monthly

Section	OIG Recommendation	Task	Description	Due Date
and Coordination	coordination between EPA program offices and regions.	Coordinators Conference Call	to discuss the tribal waste management program.	
2.2 Internal EPA Communication and Coordination	2(e) - A process to ensure coordination between EPA program offices and regions.	Quarterly Sub-Lead Region Focus Areas Conference Calls/Updates	The Sub-Lead Region for tribal issues will hold Lead Region Focus Area Conference Calls/Updates to keep regional staff informed about the Sub-Lead Region's projects.	On-going-Quarterly
			The Sub-Lead Region for tribal issues will disseminate information about the Sub-Lead Region's projects through e-mail(s).	On-going-Quarterly
			The Sub-Lead Region for tribal issues will give an update on the <i>Monthly Tribal Solid Waste Coordinators Conference Call</i> .	On-going-Monthly
2.2 Internal EPA Communication and Coordination	2(e) - A process to ensure coordination between EPA program offices and regions.	Monthly OSWER Tribal Program Coordinators Calls	ORCR and the Sub-Lead Region for tribal issues will continue to actively participate in these conference calls.	On-going-Monthly
2.2 Internal EPA Communication and Coordination	2(e) - A process to ensure coordination between EPA program offices and regions.	Monthly RCRA Permit and Base Program Managers Calls	ORCR and regional management will continue to raise issues on these conference calls, including issues relates to tribal matters, as needed.	On-going-Monthly
			ORCR will disseminate information to EPA tribal waste management and staff, quarterly through e-mail(s).	On-going-Quarterly e-mail
2.2 Internal EPA Communication and Coordination	2(e) - A process to ensure coordination between EPA program offices and regions.	Semi-annual National RCRA Division Directors Meetings and Monthly Conference	ORCR and regional management will continue to address tribal waste issues at these meetings and calls, as needed.	On-going-Monthly Conference Call/Semi-annual Meetings

Section	OIG Recommendation	Task	Description	Due Date
		Calls		
2.2 Internal EPA Communication and Coordination	2(e) - A process to ensure coordination between EPA program offices and regions.	OBLR State and Tribal Conference Calls	ORCR will regularly participate in this conference call, which is chaired by OBLR.	On-going
3.1 Integrated Waste Management Plan (IWMP) Performance Measure	2(d) – Internal controls to ensure consistent data collection and consistent provision of waste management capacity assistance to tribal clients nationwide.	Integrated Waste Management Plans	ORCR will request, from the regions, the name of any tribe with an approved IWMP which has been counted as an accomplishment under the GPRA measure for that fiscal year.	On-going-Quarterly
3.3 New Proposed Performance Measures	2(c) - Performance measures, including both output and outcome measures, to track whether EPA assistance is consistent and effective in developing solid waste management capacity and reducing risk from open dumps in Indian country.	Analysis of Performance Measures	ORCR will create a workgroup which will consist of HQ and regional staff.	September 1, 2012
			The workgroup will analyze and determine if new performance measures are needed.	On-going-Monthly (after September 2012)
			If it is determined that new performance measures are needed, EPA will develop draft performance measures.	March 31, 2013
4.2 Tribal Waste Management Program Outreach and Technical Information		Outreach Materials	ORCR and the regions will assess tribal needs for future outreach materials and tools.	December 31, 2012
4.2 Tribal Waste Management Program Outreach and Technical Information		Website Update	ORCR will include all of the documents found in Appendix 2: List of Informational Tools and Resources and links to external documents on the ORCR tribal waste	December 31, 2012

Section	OIG Recommendation	Task	Description	Due Date
			management website.	
			ORCR will link to other EPA waste management program pages on the ORCR tribal waste management website.	December 31, 2012
			ORCR will modify the overall ORCR tribal program website to include more detailed and up-to-date information about waste management issues in Indian country.	March 1, 2013
4.3 Tribal Waste Management Program Training		Webinars	ORCR will research the training which is currently available.	September 30, 2012
			ORCR and the regions will promote available trainings so tribes can take advantage of these resources.	On-going
			ORCR will develop an EPA staff training webinar.	November 30, 2012
			ORCR will host an annual webinar for new and existing EPA employees on the tools available for tribes to develop IWMPs and tribal waste programs.	On-going-Annually
			ORCR intends to develop and hold quarterly tribal webinars on EPA Tribal Waste Management Tools.	On-going - Quarterly
4.4 National Peer Matching Program		Peer Match	ORCR intends to develop a national peer match database.	November 30, 2012
			ORCR and the regions expect to initiate one peer match project.	February 28, 2013

6.0 Appendix

Appendix 1: EPA's Roles and Responsibilities

ORCR:

Program Direction and Coordination:

- ORCR and the relevant EPA offices anticipate implementing the activities and actions stated in the Plan.
- ORCR coordinates with various EPA offices, including OBLR, OPPT, AIEO, OECA, and the Regions to provide comprehensive technical assistance to tribes in Indian country. Collaboration at the national level is essential to regional program coordination of tribal solid waste management capacity assistance.
- ORCR provides a Tribal Programs Team Liaison (and alternate) to the regions for technical and policy support regarding all aspects of the RCRA tribal program.
- ORCR staff participates in Regional Tribal Operations Committee (RTOC) meetings, tribal summits, other tribal meetings and/or conferences, and regional site visits, as resources allow.
- ORCR holds a monthly Tribal Solid Waste Regional Coordinators Conference Call. These calls provide an opportunity for increased communication between HQ offices and regional offices.
- ORCR provides support in tracking the IWMP performance measure.
- Coordinate with OBLR to include training on solid waste management during tribal Brownfields conferences, trainings, and meetings.

Information and Training:

- Tribal Waste Journal (TWJ) - ORCR has developed and published nine issues of the TWJ. Each issue features articles focused on one topic. The TWJ gives the reader a more in-depth knowledge of waste management issues affecting Indian country. Issue 9 of the TWJ is currently being developed and will focus on household hazardous waste issues. Issue 9 is expected to be published in FY 2012. Funding for additional issues of TWJ is not available to ORCR in FY 2012 and future funding is uncertain, reflecting the challenging fiscal constraints facing the government at this time.
- Integrated Waste Management Plan (IWMP) Toolkit - This resource is intended to assist tribes with the development of an IWMP. The Toolkit is comprised of the following documents: *3 Steps to Developing a Tribal Integrated Waste Management Plan (IWMP)*,

Overview of Developing a Tribal IWMP, Step 1- Collect Background Data, Step 2- Map out the Tribal IWMP Framework, Step 3- Write and Implement the Tribal IWMP;

- Several fact sheets on tribal waste management issues, including transfer stations; and
- National ORCR Website.

Funding:

- ORCR will work to coordinate funding opportunities, if available, with the regions and OBLR, OPPT, AIEO, and OECA.
- For over the past decade, ORCR has conducted the annual grant competition for the Hazardous Waste Management Grant Program for Tribes. ORCR develops the solicitation and manages the overall competition. Grants are awarded through the EPA regional offices. In addition, ORCR provides assistance to the regions and tribes during the post-award process.

Regions:

EPA regional tribal waste programs actively participate in national OSWER, ORCR, AIEO, OECA and OCSPP workgroups for the purposes of developing EPA regulations, policies, guidance documents, technical papers, performance measures and tribal strategies for program management and implementation.

In parallel, regional tribal waste programs collaborate within their regional offices to develop multi-media approaches to tribal waste management. Regional RCRA tribal programs collaborate with their Regional Tribal GAP Programs and their Regional Tribal Operations Committees (RTOCs) on waste related issues. Regions forge partnerships with the, IHS, BIA, HUD, USDA-RD, other federal and state agencies, and tribal organizations.

Regions and tribes have established RTOCs or similar mechanisms, where regional and tribal personnel meet to discuss environmental issues impacting Indian country, including waste management. The regional tribal waste management programs participate in the RTOCs and regions develop working relationships with tribal organizations and with other federal agencies to more efficiently implement waste management programs in Indian country. Collaboration, both internally and externally, is essential to future development and implementation of tribal waste management programs in Indian country.

In addition, the regional tribal waste management programs develop products and policies for tribes within their region that may also be useful for tribes nationwide. Regional tribal waste management programs also support OSWER and ORCR in the development of national products and policies. Regional offices work directly with federally-recognized tribes to provide multiple services. Please note that the information described below does not apply to every regional tribal waste management program.

Regional Program and Policy Direction:

- Regions develop programs, strategies, policies and annual action plans specific to the needs of the federally-recognized tribes in their specific region; these cover topics of outreach/education, technical assistance, field work, funding/grants, enforcement and compliance, and multi-media approaches to waste issues.
- One region acts in an advisory role as Sub-Lead Region Coordinator for Tribal Solid Waste. The Sub-Lead Regional Coordinator's role includes the overall coordination between the regions on national initiatives and priority setting.

Regional Consultation and Coordination Activities with Federally-Recognized Tribes:

- Implement the national EPA Consultation Policy;
- Ensure that tribal government concerns are elevated to the national EPA program offices;
- At the request of tribal government officials or staff, facilitate meetings amongst states, local governments and tribes to discuss and develop solid waste management solutions and/or work towards a resolution of complex, controversial issues;
- Engage in the overall coordination and communication with tribes and tribal organizations within the region;
- Participate in tribal meetings, such as RTOCs and other regional and national tribal meetings to present specific topics, to build and enhance networks to address tribal issues, and to better understand tribal needs; and
- Meet with tribal officials and staff to explain new and emerging regulations, enforcement, technical aspects of alternative landfill covers and compliance assistance plans.

Field Technical Assistance and Outreach Activities:

- Develop technical assistance and outreach documents, on topics, such as green buildings, how to design and implement a solid waste program, how to close a waste disposal facility, management of abandoned vehicles, etc.;
- Develop and host regional tribal solid and hazardous waste websites;
- Provide and/or participate in formal and informal training courses on a variety of topics, such as Rural Alaska Landfill Operator training;
- Develop workshops for annual Tribal/EPA Conferences;

- Coordinate and communicate with other EPA organizations, both within and outside of the region, HQ program offices, and other federal agencies to address solid waste issues, pollution prevention strategies, and to identify additional resources and funding for tribes.
- Communicate funding, resource, and training opportunities to tribes;
- Assist in peer matching efforts;
- Conduct in-depth, on-site field technical and compliance assistance to interested tribes;
- Respond to telephone inquiries and requests for speakers/attendance at specific tribal meetings or conferences;
- Review tribal site-specific flexibility requests;
- Technical support concerning issues such as waste collection and management, recycling, waste prevention; and
- Support to the tribes to develop IWMPs, including reviews for technical accuracy and reviewing draft codes and ordinances.

Funding:

- Provide financial assistance to tribes through grants for activities authorized by the grant authority(ies);
- Coordinate and leverage resources from within EPA and with other federal, state, and local agencies to leverage funding for tribal solid waste programs;
- Coordinate work plan development and/or funding decisions for solid waste projects; and
- Develop and implement specialized regional grant solicitations, such as the Household Hazardous Waste Collection and Disposal Grant Program for Tribes.

Data Management and Collection:

- Collect data on IWMPs; and
- Report to the EPA Annual Commitment System.

OECA:

OECA uses four primary tools to identify and address RCRA noncompliance and solid waste issues in Indian country: (1) compliance assistance; (2) compliance monitoring; (3) civil enforcement; and (4) criminal enforcement.

Compliance Assistance:

EPA's compliance assistance program involves assisting the regulated community in Indian country, tribal and non-tribal businesses, tribal governments, federal facilities, and others, comply with the RCRA requirements through online compliance assistance resource centers, and portals, fact sheets, guides and training.

Compliance Monitoring:

EPA's compliance monitoring program involves on-site visits by qualified inspectors, and review of available environmental monitoring and compliance information required to be submitted. To increase its on-site (field) presence in Indian country, EPA can and has authorized tribal inspectors to conduct hazardous waste inspections on behalf of the Agency. Violations may also be discovered as a result of investigations initiated after EPA receives tips and complaints from the public. Violations discovered as a result of compliance monitoring may lead to civil or criminal enforcement.

Civil and Criminal Enforcement:

RCRA contains two primary civil enforcement provisions to address solid waste and illegal dumping in Indian country. Section 7003 of RCRA, 42 U.S.C. § 6973, provides EPA with broad authority to abate conditions that may present an imminent and substantial endangerment to health or the environment. Section 7003 allows EPA to address situations where the handling, storage, treatment, transportation, or disposal of any solid or hazardous waste may present such an endangerment. In these situations, EPA can initiate judicial action or issue an administrative order to any person who is contributing or has contributed to such handling, storage, treatment, transportation, or disposal. The action or order can require the person(s) or entities (i.e., generators, transporters, or owners or operators) to refrain from those activities or to take necessary action to correct the practice/activity.

Section 4005(c)(2) of RCRA, 42 U.S.C. § 6945(c)(2)(A) allows EPA to use inspection and administrative enforcement authorities available under Sections 3007 and 3008 of RCRA in limited circumstances to address uncontrolled waste dumps. EPA can use Section 4005(c)(2) to ensure compliance with RCRA's open dumping prohibition only at solid waste disposal facilities that receive household hazardous waste, or conditionally exempt small quantity generator waste. EPA has issued a guidance memorandum on use of Section 4005(c)(2) in Indian country.¹⁵

EPA's criminal enforcement program enforces the nation's laws by investigating cases, collecting evidence, conducting forensic analyses and providing legal guidance to assist in the prosecution of criminal conduct, with an emphasis on conduct that threatens human health and the environment. EPA and tribes can enter into a memorandum of agreement regarding criminal enforcement to promote communication and cooperation between tribal and federal law enforcement.

¹⁵ Memorandum from Office of Civil Enforcement, *Guidance on Using RCRA Section 4005(c) (2) to Address Uncontrolled Waste Dumps in Indian Country*. March 30, 2007.

Program Direction:

The National Program Managers Guidance (NPM Guidance) describes how the Agency implements RCRA. EPA's RCRA Enforcement Policy and Guidance Compendium contain the compliance monitoring and enforcement policies related to the NPM Guidance and the RCRA program's implementation. Please see <http://www.epa.gov/planandbudget/FY11OECANPMGdnce.pdf> and <http://cfpub.epa.gov/compliance/resources/policies/civil/rcra/> for more information.

Outreach and Education Activities:

OECA engages tribes on RCRA enforcement and compliance assurance issues that may affect tribes and coordinates with ORCR to ensure such issues are raised within EPA and with EPA sponsored tribal partnership groups.

Coordination Activities:

- Participant: EPA's National Indian Legal Workgroup;
- Participant: RCRA Enforcement Managers Workgroup;
- Participant: National EPA RCRA Division Directors Meetings and Conference Calls; and
- Participant: National RCRA Permits and Base Program Managers Conference Calls.

OBLR:

Program Direction:

- Work with ORCR to develop procedures and internal controls to coordinate Brownfields activities that support or impact tribal integrated waste management efforts, including:
 - Reference technical assistance tools and resources that may be of use to 128(a) tribal grant recipients, such as the IWMP five-elements and Integrated Waste Management Plan (IWMP) Toolkit, and the draft *Sustainability Evaluation Tool*. The Toolkit is comprised of the following documents: *3 Steps to Developing a Tribal Integrated Waste Management Plan (IWMP)*, *Overview of Developing a Tribal IWMP*, *Step 1- Collect Background Data*, *Step 2- Map out the Tribal IWMP Framework*, *Step 3- Write and Implement the Tribal IWMP*.
 - Apply consistent internal controls for uncontrolled waste sites collected under Brownfields grants that support open dump assessment or cleanup.

Outreach and Education Activities:

- OBLR staff will participate in ORCR webinars to discuss Brownfields tools that could support tribal integrated waste management programs, such as the Brownfields Inventory Tool.

Coordination Activities:

- OBLR will discuss proposed internal control procedures and regularly communicate other coordination efforts, as described above, in support of tribal waste management with the Regional EPA tribal Brownfields coordinators.

Appendix 2: List of Informational Tools and Resources

Regions and HQ have developed multiple informational tools and resources to assist tribes in developing waste management programs. Links to these tools and resources will be located on the ORCR tribal web page. Below is a list of tools that are currently available:

- Abandoned Mobile Home Toolkit (Region 2);
- Building a Tribal Solid Waste Program (Region 10);
- *Closing Small Tribal Landfills and Open Dumps- How to Design Environmentally Safe Covers, Including Additional Design Guidance for Arid Regions* (Region 9);
- Compliance Management Practices for Tribal Construction and Demolition Debris Landfills in Region 5 (Document and Checklist) (Region 5);
- *Developing an Abandoned Vehicle Program for Tribal Governments* (Region 9);
- Draft *Sustainability Evaluation Tool* (Region 8);
- Draft *Federal Resource Guide for Tribal Integrated Waste Management* (Region 5);
- *Household Hazardous Waste Collection: A Program Guide for Tribal Governments*, with accompanying brochure (Region 9);
- *Three Steps to Developing a Tribal Integrated Waste Management Plan Brochure- Overview of Developing a Tribal IWMP, Step 1- Collect Background Data, Step 2- Map out the Tribal IWMP Framework, Step 3- Write and Implement the Tribal IWMP* (ORCR);
- Tribal Brochure - *Where Your Waste Goes: A Waste Management Guide* (Region 9);
- Tribal Brochure – *Don't Trash Our Land: Prevent Illegal Dumping* (Region 9);

- Tribal Casino Best Management Practices Toolkit (Region 9);
- *Tribal Decision-Maker's Guide to Solid Waste Management* (ORCR);
- Tribal P2 website: <http://tribalp2.org/index.php> (Region 8);
- *Tribal Solid Waste Program Costing Tool* (Regions 8, 9, 10);
- Tribal Solid Waste Workshops- Training is provided on how tribes can leverage funding for their solid waste programs with state and federal programs resources (Region 6);
- Tribal Waste Journal: *Against All Odds: Transfer Station Triumphs* (ORCR);
- Tribal Waste Journal: *Alaska Villages Chart Their Own Course Toward Solid Waste Solutions* (ORCR);
- Tribal Waste Journal: *Composting Nourishes Land and Tradition* (ORCR);
- Tribal Waste Journal: *Construction and Demolition Materials: Concrete Reasons to Manage Them Now* (ORCR);
- Tribal Waste Journal: *Innovations in Tribal Waste Management: Open Dump Prevention* (ORCR);
- Tribal Waste Journal: *Methamphetamine: Threatening the Health and Environment of Tribal Communities* (ORCR);
- Tribal Waste Journal: *Respect Our Resources: Prevent Illegal Dumping* (ORCR); and
- Tribal Waste Journal: *What is an Integrated Waste Management Plan?* (ORCR).

Appendix 3: List of Acronyms

ACS - Annual Commitments System

AIEO - American Indian Environmental Office

ARC Grants - Assessment, Revolving Loan Fund, and Cleanup Grants

EPA - Environmental Protection Agency

EWDJT - Environmental Workforce Development and Job Training

GAP - General Assistance Program

GPRA - Government and Performance Results Act

HUD - Department of Housing and Urban Development

HQ - Headquarters

IHS - Indian Health Service

ITEP - Institute for Tribal Environmental Professionals

IWMP - Integrated Waste Management Plan

NPM - National Program Managers

OBLR - Office of Brownfields and Land Revitalization

OCSP - Office of Chemical Safety and Pollution Prevention

OECA - Office of Enforcement and Compliance Assurance

OIG- Office of Inspector General

OPPT- Office of Pollution Prevention and Toxics

ORCR - Office of Resource Conservation and Recovery

OSWER - Office of Solid Waste and Emergency Response

RTOC - Regional Tribal Operations Committee

RCRA - Resource Conservation and Recovery Act

TSW - Tribal Solid Waste

TWM - Tribal Waste Management

USDA - U.S. Department of Agriculture